

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION

CIVIL CASE NO. 2:09cv54

TONY RAY CARROLL,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER OF REMAND</u>
)	
COMMISSIONER OF SOCIAL)	
SECURITY ADMINISTRATION,)	
)	
Defendant.)	
)	

THIS MATTER is before the Court on the parties' unopposed Motion for Reversal and Remand pursuant to Sentence Four of 42 U.S.C. §405(g) [Doc. 18].

Sentence four of 42 U.S.C. §405(g) provides in pertinent part, "[t]he court shall have the power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." The parties have moved for reversal of the decision of the Defendant and remand for further administrative proceedings.

Specifically, the parties ask that the administrative law judge (ALJ) be instructed to update the medical record, conduct a new hearing, and issue a new decision. Further, the ALJ shall be directed to make a finding of fact as to whether the severity of Plaintiff's cognitive impairment meets or equals the criteria of section 12.05C, Appendix 1, Subpart P, Regulations No. 4. To assist in this evaluation, the ALJ will be directed to obtain testimony from a medical expert. Based on the representations of the parties, the Court finds that reversal and remand are appropriate.

Melkonyan v. Sullivan, 501 U.S. 89, 111 S.Ct. 2157, 115 L.Ed.2d 78 (1991).

IT IS, THEREFORE, ORDERED that the Defendant's unopposed Motion for Reversal and Remand pursuant to Sentence Four of 42 U.S.C. §405(g) [Doc. 18] is hereby **GRANTED**; and

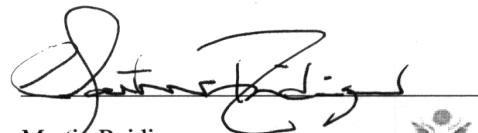
IT IS FURTHER ORDERED that the decision of the Commissioner of Social Security is hereby **REVERSED** and the case is **REMANDED**; and

IT IS FURTHER ORDERED that upon remand, the administrative law judge (ALJ) shall be instructed to update the medical record, conduct a new hearing, and issue a new decision. Further, the ALJ shall be directed to make a finding of fact as to whether the severity of Plaintiff's cognitive impairment meets or equals the criteria of section 12.05C, Appendix 1,

Subpart P, Regulations No. 4. To assist in this evaluation, the ALJ shall be directed to obtain testimony from a medical expert.

A Judgment of Remand is entered simultaneously herewith. The Clerk of Court is notified that this is a final judgment closing the case.

Signed: October 22, 2010



Martin Reidinger
United States District Judge

